

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

RICHARD L. MUSE, §
§
Plaintiff, §
VS. § CIVIL ACTION NO. C-09-300
§
MICHAEL J. ASTRUE, §
§
Defendant. §

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEYS FEES
AND EXPENSES**

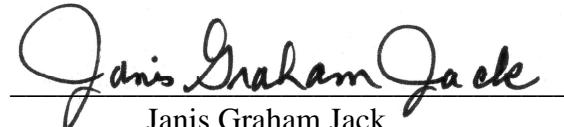
On December 2, 2010, final judgment was entered remanding this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) so that a proper assessment of plaintiff's alcoholism could be made and so that records relating to his hip impairment could be obtained and considered (D.E. 12, 13). The Commissioner did not appeal the decision.

On March 1, 2011, plaintiff timely filed his unopposed motion for attorneys fees and costs pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412 (D.E. 14). Plaintiff represented that the motion was unopposed, and the Commissioner failed to file any response to the motion. According to the Local Rules for the Southern District of Texas, failure to file a response is taken as a representation that a party is unopposed to the granting of the relief requested. LR7.4.

Accordingly, plaintiff's motion (D.E. 14) is granted. As required by 28 U.S.C. § 2412, the Court finds, as alleged, that plaintiff is a prevailing party, that the position of the United States was not substantially justified, and the plaintiff's net worth does not exceed \$2,000,000. The Court further finds reasonable the request that plaintiff be compensated for the services of his attorney at a rate of \$160.25 per hour for 26.75 hours plus the filing fee of \$350.00, for a total

award of \$4,636.69. This sum is payable to plaintiff by the Commissioner. *Astrue v. Ratliff*, ____ U.S. ___, 130 S.Ct. 2521 (2010).

SIGNED and ORDERED this 4th day of April, 2011.



Janis Graham Jack
United States District Judge